

**HEARING OF THE
STATE WATER RESOURCES CONTROL BOARD**

**1001 "T" Street
P.O. Box 100
Sacramento, California 95814
(916) 341-5272**

ACLIC No. OE-2011-0018

NOTICE OF PUBLIC HEARING

TO CONSIDER AN ADMINISTRATIVE CIVIL LIABILITY

<u>DISCHARGER</u>	<u>DISCHARGE LOCATION</u>	<u>RECEIVING WATERS</u>
TREA Wilshire Rodeo, LLC	131 SOUTH RODEO DRIVE, BEVERLY HILLS, CA 90212	Ballona Creek

Administrative Civil Liability Complaint ("ACLIC") No. OE-2011-0018 alleges that TREA Wilshire Rodeo, LLC (Permittee) violated waste discharge requirements contained in Regional Water Board Order No. R4-2008-0032 by failing to comply with effluent limits. As stated in the ACLIC, State Water Board staff, represented by the State Water Board Staff Prosecution Team (Prosecution Team), recommends that a penalty of \$252,000.00 be assessed against TREA Wilshire Rodeo, LLC for these violations.

Pursuant to Water Code section 13323(c) and section 183, a member of the State Water Board (hereinafter "Hearing Officer") will convene a hearing to hear evidence, determine facts, and to propose a recommendation to the State Water Board about resolution of the ACLIC.

This notice sets forth procedures and outlines the process to be used at this hearing.

I. HEARING DATE AND LOCATION

Date: January 18-19, 2012
Time: 10:00 A.M.
Place: 320 W. 4th Street
Los Angeles, CA 90013
* Room location TBD

II. AVAILABILITY OF DOCUMENTS

The ACLIC and other documents concerning the subject of the ACLIC are available for inspection and copying between the hours of 8:00 a.m. and 5:00 p.m. at the following address:

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Arrangements for file review and/or copies of the documents may be made by calling Mr. Hugh Marley of the Los Angeles Regional Water Board at (213) 620-6375. Comments received, the Prosecution Team's proposed Hearing Report and Order, and other subsequent relevant documents will be available as they are received or generated.

The entire file will become a part of the administrative record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing or contained in the Hearing binder. However, the entire file might not be present at the hearing. Should any parties or interested persons desire that the Prosecution Team bring to the hearing any particular documents that are not included in the Hearing binder, they must submit a written or electronic request to the Case Manager of the Prosecution Team (identified in section V below) so that it is received by **5:00 p.m. on December 29, 2011**. The request must identify the documents with enough specificity for the Prosecution Team to locate them. (Documents in the Hearing binder will be present at the hearing.)

III. NATURE OF HEARING

This will be a formal adjudicative hearing pursuant to section 648 et seq. of title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the State Water Board, except as otherwise specified in the above-referenced regulations.

IV. PARTIES TO THE HEARING

The following are the parties to this proceeding:

1. TREA Wilshire Rodeo, LLC
2. State Water Board Staff Prosecution Team

All other persons who wish to participate in the hearing as a designated party shall request party status by submitting a written or electronic request to the Legal Advisor to the Hearing Officer identified in section VIII below so that it is received by **5:00 p.m. on December 7, 2011**. All requests for designation as a party shall include the name, phone number, and email address of the person who is designated to receive notices about this proceeding. The request shall also include a statement explaining the reasons for their request (e.g., how the issues to be addressed in the hearing and the potential actions by the State Water Board affect the person), and a statement explaining why the parties designated above do not adequately represent the person's interest. The requesting party will be notified before the hearing whether the request is granted. All parties will be notified if other persons are so designated.

V. COMMUNICATIONS WITH THE PROSECUTION TEAM

The California Administrative Procedure Act requires the State Water Board to separate prosecutorial and adjudicative functions in matters that are prosecutorial in nature. A Prosecution Team, comprised of the State Water Board enforcement and other staff, will serve as the complainant in the proceedings and is a designated party. The Case Manager over this matter, who will coordinate the efforts of the Prosecution Team, is Jarrod Ramsey-Lewis, Water Resource Control Engineer from the State Water Board. Mayumi Okamoto will advise the Prosecution Team prior to and at the hearing. Neither Ms. Okamoto nor the members of the Prosecution Team will be advising the State Water Board in this matter or have engaged in any substantive conversations regarding the issues involved in this proceeding with any of the Board Members or the advisors to the Hearing Officer (identified below).

Any communication with the Prosecution Team prior to the hearing should be directed to the Case Manager:

Jarrod Ramsey-Lewis, PE
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814
(916) 341-6984
JRamsey-Lewis@WaterBoards.ca.gov

VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE

A. Submittals By Parties.

Not later than **December 9, 2011**, the Prosecution Team will send the parties a preliminary Hearing binder containing the most pertinent documents related to this proceeding and a PowerPoint presentation, which summarizes the evidence and testimony that the Prosecution Team will present and rely upon at the hearing.

TREA Wilshire Rodeo, LLC. is required to submit:

- 1) Any additional documents or evidence TREA Wilshire Rodeo, LLC wants the Hearing Officer to consider,
- 2) A summary of any testimony TREA Wilshire Rodeo, LLC intends to present, and
- 3) A statement regarding how much time TREA Wilshire Rodeo, LLC needs to present the case

to the attention of the Case Manager of the Prosecution Team (as identified above) and other designated parties so that it is received by **5:00pm on December 19, 2011**. The Prosecution Team shall have the right to present additional evidence in rebuttal of matters submitted by any other party.

The Prosecution Team will send to the Hearing Officer and the parties a final Hearing binder no later than **January 9, 2012**. An agenda containing the date, time, and location of the hearing will be mailed to TREA Wilshire Rodeo, LLC at least ten days prior to the hearing date.

B. Submittals By Interested Persons.

Persons who are not designated as parties, above, that wish to comment upon or object to the proposed ACLC, or submit evidence for the Hearing Officer to consider, are invited to submit them in writing to the Prosecution Team (as identified above). To be evaluated and responded to by Prosecution Team, included in the final Hearing binder, and fully considered by the Hearing Officer in advance of the hearing, any such written materials must be received by **5:00 p.m. on December 19 2011**. If possible, please submit written comments in Word format electronically to the Case Manager. Interested persons should be aware the State Water Board is entitled to settle this matter without further notice, and therefore a timely submittal by this date may be the only opportunity to comment upon the subject of this ACLC. If the hearing proceeds as scheduled, the Hearing Officer will also receive oral comments from any person during the hearing (see below).

VII. HEARING PROCEDURES

Adjudicative proceedings before the Hearing Officer generally will be conducted in the following order:

- Opening statement by Hearing Officer
- Administration of oath to persons who intend to testify
- Prosecution Team presentation
- Discharger presentation
- Designated parties' presentation (if applicable)
- Interested persons' comments
- Prosecution Team rebuttal
- Questions from Hearing Officer
- Deliberations (in open or closed session)
- Announcement of recommendation to the State Water Board

While this is a formal administrative proceeding, the Hearing Officer does not generally require the cross-examination of witness, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Parties will be advised by the Hearing Officer after the receipt of public comments, but prior to the date of the hearing, of the amount of time each party will be allocated for presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact the Case Manager **by 5:00 p.m. on December 19, 2011** to state how much time they believe is necessary for their presentations (see Section VI. A above). It is the State Water Board's intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Interested persons may be limited to approximately five (5) minutes each, for their presentations, in the discretion of the Hearing Officer, depending on the number of persons wishing to be heard. Persons with similar concerns or opinions are encouraged to choose one representative to speak.

For accuracy of the record, all important testimony should be in writing, and delivered as set forth above. All evidence, including all written materials, must be received by the deadlines identified in Section IV.A, and IV.B., above, or it may be excluded from consideration by the Hearing Officer. The Hearing Officer will include in the administrative record written transcriptions of oral testimony or comments made at the hearing.

VIII. COMMUNICATIONS WITH THE HEARING OFFICER

A. Ex Parte Communications Prohibited.

As an adjudicative proceeding, State Water Board members and their advisors may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice. **Any communications to the State Water Board, Hearing Officer, or Hearing Officer Advisors before the hearing must also be copied to the Prosecution Team and other Party(ies), as identified above.**

B. Hearing Officer Advisors.

The Hearing Officer will be advised before and during the hearing by a technical advisor, Tim Regan, Senior Staff Counsel, and/or Phil Wyels, Assistant Chief Counsel. None of these individuals has exercised any authority or discretion over the Prosecution Team, or advised them with respect to this matter.

C. Objections to manner of hearing and resolution of any other issues.

1. Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Case Manager at any time, who will try to accommodate the requests. Agreements between a party and the Prosecution Team will generally be accepted by the Hearing Officer as stipulations.
2. Objections to (a) any procedure to be used or not used during this hearing, (b) any documents or other evidence submitted by the Prosecution Team, or (c) any other matter set forth in this notice, must be submitted in writing and received by the Legal Advisor to the Hearing Officer (identified below) by **5:00 p.m. on December 19, 2011**:

Tim Regan
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
(916) 341-5172
TRegan@WaterBoards.ca.gov

Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will not be entertained at the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

3. Any issues outside the scope of those described in section C.2, above, that cannot be resolved by stipulation shall be brought to the attention of the Legal Advisor to the Hearing Officer, as set forth in section C.2, by **5:00 p.m. on December 19, 2011** if possible, and if not possible, then at the earliest possible time with an explanation about why the issue could not have been raised sooner.

IX. QUESTIONS ABOUT NOTICE

Questions about notice may be directed to the Case Manager of the Prosecution Team, or the Legal Advisor to the Hearing Officer as described above.

Date: November 8, 2011